

AMENDED IN ASSEMBLY JUNE 22, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 12, 2005

SENATE BILL

No. 655

Introduced by Senator Ortiz

February 22, 2005

An act to add Section 25928 to the Health and Safety Code, *to amend Section 2699.5 of, and to add Chapter 7.7 (commencing with Section 2680) to Division 2 of, the Public Resources Code*, relating to asbestos.

LEGISLATIVE COUNSEL'S DIGEST

SB 655, as amended, Ortiz. Asbestos ~~task force~~.

Existing

(1) *Existing* law provides for the Asbestos Assessment Task Force, composed of representatives from the State Department of Health Services, the Department of Industrial Relations, the Department of General Services, and the Commission on Building Standards, to analyze the magnitude of the asbestos problem in public buildings.

This bill would require the California Environmental Protection Agency (Cal-EPA) to convene a task force, consisting of representatives of the Office of Environmental Health Hazard Assessment, the Department of Toxic Substances Control, the State Air Resources Board, the State Department of Health Services, and if they agree to participate, representatives of Region IX of the United States Environmental Protection Agency, and the Agency for Toxic Substances and Disease Registry of the United States Department Health and Human Services to evaluate policies and adopt guidelines for the mitigation of risks associated with naturally occurring asbestos.

The bill would also require Cal-EPA to request the participation on the task force of 4 representatives from the air quality management districts, who are selected by these districts, in areas that are impacted by naturally occurring asbestos.

The bill would prohibit Cal-EPA from convening that task force to take those actions until federal funds are received by the agency for that purpose.

(2) Funds in the Strong-Motion Instrumentation and Seismic Hazards Mapping Fund, upon appropriation by the Legislature, are allocated to the Division of Mines and Geology in the Department of Conservation for purposes relating to seismic hazards identification and mapping.

This bill would require that moneys in the fund also be allocated, upon appropriation by the Legislature, for purposes relating to asbestos hazards identification and mapping.

This bill would establish the Asbestos Hazards Mapping Act, which, among other things, would require the State Geologist to compile maps identifying asbestos hazard zones, as specified, and, upon completion, to submit those asbestos hazard maps to the State Mining and Geology Board and all affected cities, counties, and state agencies for review and comment. The act would require concerned jurisdictions and agencies to submit all comments to the board for review and consideration, and would require the State Geologist, within 90 days from the date of that submission, to revise the maps, as appropriate, and provide copies of the official maps to each state agency, city, or county, including the county recorder, having jurisdiction over lands containing an area of asbestos hazards. The act would require cities and counties, prior to approval of a project located in an asbestos hazard zone, to require a geotechnical report defining and delineating any asbestos hazards, as provided. The act would require each city and county, in preparing the safety element of its general plan, and in adopting or revising land use planning and permitting ordinances, to take into account the information provided in available asbestos hazards maps.

The act would require, on or before July 1, 2006, the State Mining and Geology Board, in consultation with the Director of Conservation and the State Lands Commission, to develop specified guidelines, priorities, and procedures for asbestos hazards mapping, as provided.

The act would require a person who is acting as an agent for a transfer or of real property that is located within an asbestos hazard

zone, as designated, or the transferor if he or she is acting without an agent, to disclose to any prospective transferee the fact that the property is located within an asbestos hazard zone.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25928 is added to the Health and Safety
2 Code, to read:

3 25928. (a) Except as provided in subdivision (b), the
4 California Environmental Protection Agency shall convene a task
5 force, consisting of representatives of the Office of
6 Environmental Health Hazard Assessment, the Department of
7 Toxic Substances Control, the State Air Resources Board, the
8 State Department of Health Services, and, if they agree to
9 participate, representatives of Region IX of the United States
10 Environmental Protection Agency and the Agency for Toxic
11 Substances and Disease Registry of the United States Department
12 of Health and Human Services to evaluate policies and adopt
13 guidelines for the mitigation of risks associated with naturally
14 occurring asbestos. The California Environmental Protection
15 Agency shall also request the participation on the task force of
16 four representatives from the air quality management districts,
17 who are selected by those districts, in areas that are impacted by
18 naturally occurring asbestos.

19 (b) The California Environmental Protection Agency may only
20 implement subdivision (a) with federal funds, and shall not
21 implement subdivision (a) until federal funds are received by the
22 agency for that purpose.

23 SEC. 2. Chapter 7.7 (commencing with Section 2680) is
24 added to Division 2 of the Public Resources Code, to read:

25
26 CHAPTER 7.7. ASBESTOS HAZARDS MAPPING ACT
27

28 2680. This chapter shall be known and may be cited as the
29 Asbestos Hazards Mapping Act.

30 2681. The Legislature finds and declares all of the following:

1 (a) *Asbestos is a known human carcinogen and is known to*
2 *cause fatal illnesses including, but not limited to, asbestosis, lung*
3 *cancer, parietal pleura, lung cancer, and mesothelioma.*

4 (b) *Asbestos is the name given collectively to the fibrous forms*
5 *of several naturally occurring silicate minerals that form under*
6 *high pressure in the earth's crust, which are commonly found*
7 *near earthquake faults. Geologists divide asbestos into two*
8 *categories, which differ in both structure and chemical*
9 *composition. The two types of asbestos are: (1) serpentine, of*
10 *which chrysotile is the only asbestiform type; and (2)*
11 *amphiboles, which includes cocidolite, amosite, anthophyllite,*
12 *and the fibrous form of actinolite and tremolite.*

13 (c) *Asbestos is commonly found in ultramafic rock. Serpentine*
14 *is a type of ultramafic rock. Asbestos is less likely, but may also*
15 *be present in other forms of rock such as mafic rock. The amount*
16 *of asbestos that is typically present ranges from less than 1*
17 *percent to 25 percent or more.*

18 (d) *Ultramafic rock, primarily serpentine, is found in many*
19 *parts of California, as many as 44 of California's 58 counties,*
20 *and is especially abundant in the coastal ranges, the Klamath*
21 *Mountains, and the Sierra Foothills, where it is commonly*
22 *exposed near earthquake faults. The asbestos contained within*
23 *the rock becomes disrupted and airborne when the rock is broken*
24 *through soil disturbing activities such as mining, construction,*
25 *and other land grading activities.*

26 (e) *Asbestos, left undisturbed in its rock host, presents no*
27 *threat to human health. However, activities that release the*
28 *asbestos into the air or water disturb the asbestos and create an*
29 *environmental health hazard.*

30 (f) *It is necessary to identify and map asbestos hazard zones in*
31 *order for cities and counties to adequately prepare the safety*
32 *element of their general plans, and to encourage land use*
33 *management policies and regulations to reduce and mitigate*
34 *those hazards to protect public health and safety.*

35 2682. (a) *It is the intent of the Legislature to provide for a*
36 *statewide asbestos hazards mapping and technical advisory*
37 *program to assist cities and counties in fulfilling their*
38 *responsibilities relating to protecting the public health and safety*
39 *from the hazards caused by asbestos.*

1 ***(b) It is further the intent of the Legislature that maps and***
2 ***accompanying information provided pursuant to this chapter be***
3 ***made available to local governments for planning and***
4 ***development purposes.***

5 2683. *As used in this chapter:*

6 ***(a) “Board” means the State Mining and Geology Board.***

7 ***(b) “Geotechnical report” means a report prepared by a***
8 ***certified engineering geologist or a civil engineer practicing***
9 ***within the area of his or her competence, which identifies***
10 ***asbestos hazards and recommends mitigation measures to reduce***
11 ***the risk of asbestos hazards to acceptable levels.***

12 ***(c) “Mitigation” means those measures that are consistent***
13 ***with established practice and that will reduce asbestos risk to***
14 ***acceptable levels.***

15 ***(d) “Project” has the same meaning as in Section 2621.6,***
16 ***except as follows:***

17 ***(1) A single-family dwelling otherwise qualifying as a project***
18 ***may be exempted by the city or county having jurisdiction of the***
19 ***project.***

20 ***(2) “Project” does not include alterations or additions to any***
21 ***structure within an asbestos hazard zone that do not exceed***
22 ***either 50 percent of the value of the structure or 50 percent of the***
23 ***existing floor area of the structure.***

24 2684. ***(a) A person who is acting as an agent for a transferor***
25 ***of real property that is located within an asbestos hazard zone,***
26 ***as designated under this chapter, or the transferor, if he or she is***
27 ***acting without an agent, shall disclose to any prospective***
28 ***transferee the fact that the property is located within an asbestos***
29 ***hazard zone.***

30 ***(b) Disclosure is required pursuant to this section only when***
31 ***one of the following conditions is met:***

32 ***(1) The transferor, or transferor’s agent, has actual***
33 ***knowledge that the property is within an asbestos hazard zone.***

34 ***(2) A map that includes the property has been provided to the***
35 ***city or county and a notice has been posted at the offices of the***
36 ***county recorder, county assessor, and county planning agency***
37 ***that identifies the location of the map and any information***
38 ***regarding changes to the map received by the county.***

1 (c) In all transactions that are subject to Section 1103 of the
2 Civil Code, the disclosure required by subdivision (a) of this
3 section shall be provided by either of the following means:

4 (1) The Local Option Real Estate Transfer Disclosure
5 Statement, as provided in Section 1102.6a of the Civil Code.

6 (2) The Natural Hazard Disclosure Statement, as provided in
7 Section 1103.2 of the Civil Code.

8 (d) For purposes of the disclosures required by this section,
9 the following persons shall not be deemed agents of the
10 transferor:

11 (1) Persons specified in Section 1103.11 of the Civil Code.

12 (2) Persons acting under a power of sale regulated by Section
13 2924 of the Civil Code.

14 (e) For purposes of this section, Section 1103.13 of the Civil
15 Code applies.

16 (f) The specification of items for disclosure in this section does
17 not limit or abridge any obligation for disclosure created by any
18 other provision of law or that may exist in order to avoid fraud,
19 misrepresentation, or deceit in the transfer transaction.

20 2685. (a) On or before July 1, 2006, the board, in
21 consultation with the director and the commission, shall develop
22 all of the following:

23 (1) Guidelines for the preparation of maps of asbestos hazard
24 zones in the state.

25 (2) Priorities for mapping of asbestos hazard zones. In setting
26 priorities, the board shall take into account the following factors:

27 (A) The population affected by the asbestos hazards in the
28 event of an earthquake.

29 (B) The probability that the asbestos hazards would threaten
30 public health and safety.

31 (C) The willingness of lead agencies and other public agencies
32 to share the cost of mapping within their jurisdiction.

33 (D) The availability of existing information.

34 (3) Policies and criteria regarding the responsibilities of
35 cities, counties, and state agencies pursuant to this chapter. The
36 policies and criteria shall address, but not be limited to, the
37 following:

38 (A) Criteria for approval of a project within an asbestos
39 hazard zone, including mitigation measures.

40 (B) The contents of the geotechnical report.

1 (C) Evaluation of the geotechnical report by the lead agency.

2 (4) Guidelines for evaluating asbestos hazards and
3 recommending mitigation measures.

4 (5) Any necessary procedures, including, but not limited to,
5 processing of waivers pursuant to Section 2684, to facilitate the
6 implementation of this chapter.

7 (b) At least 90 days prior to adopting measures pursuant to
8 this section, the board shall transmit or cause to be transmitted a
9 draft of those measures to affected cities, counties, and state
10 agencies for review and comment.

11 2686. (a) The State Geologist shall compile maps identifying
12 asbestos hazard zones, consistent with the requirements of
13 Section 2685. The maps shall be compiled in accordance with a
14 time schedule developed by the director and based upon the
15 provisions of Section 2685 and the level of funding available to
16 implement this chapter.

17 (b) The State Geologist shall, upon completion, submit
18 asbestos hazard maps compiled pursuant to subdivision (a) to the
19 board and all affected cities, counties, and state agencies for
20 review and comment. Concerned jurisdictions and agencies shall
21 submit all comments to the board for review and consideration
22 within 90 days.

23 Within 90 days of board review, the State Geologist shall
24 revise the maps, as appropriate, and shall provide copies of the
25 official maps to each state agency, city, or county, including the
26 county recorder, having jurisdiction over lands containing an
27 area of asbestos hazards. The county recorder shall record all
28 information transmitted as part of the public record.

29 (c) In order to ensure that sellers of real property and their
30 agents are adequately informed, any county that receives an
31 official map pursuant to this section shall post a notice within
32 five days of receipt of the map at the office of the county
33 recorder, county assessor, and county planning agency,
34 identifying the location of the map, any information regarding
35 changes to the map, and the effective date of the notice.

36 2687. (a) Cities and counties shall require, prior to the
37 approval of a project located in an asbestos hazard zone, a
38 geotechnical report defining and delineating any asbestos
39 hazard. If the city or county finds that no undue hazard of this
40 kind exists, based on information resulting from studies

1 conducted on sites in the immediate vicinity of the project and of
2 similar soil composition to the project site, the geotechnical
3 report may be waived. After a report has been approved or a
4 waiver granted, subsequent geotechnical reports shall not be
5 required, provided that new geologic datum, or data, warranting
6 further investigation is not recorded. Each city and county shall
7 submit one copy of each approved geotechnical report, including
8 the mitigation measures, if any, that are to be taken, to the State
9 Geologist within 30 days of its approval of the report.

10 (b) In meeting the requirements of this section, a city or county
11 shall consider the policies and criteria established pursuant to
12 this chapter. If a project's approval is not in accordance with the
13 policies and criteria, the city or county shall explain the reasons
14 for the differences in writing to the State Geologist, within 30
15 days of the project's approval.

16 2688. Nothing in this chapter is intended to prevent cities and
17 counties from establishing policies and criteria that are more
18 strict than those established by the board.

19 2689. Each city and county, in preparing the safety element
20 to its general plan pursuant to subdivision (g) of Section 65302
21 of the Government Code, and in adopting or revising land use
22 planning and permitting ordinances, shall take into account the
23 information provided in available asbestos hazard maps.

24 SEC. 3. Section 2699.5 of the Public Resources Code is
25 amended to read:

26 2699.5. (a) There is hereby created the Seismic Hazards
27 Identification Fund, as a special fund in the State Treasury.

28 (b) Upon appropriation by the Legislature, the moneys in the
29 Strong-Motion Instrumentation and Seismic Hazards Mapping
30 Fund shall be allocated to the division for purposes of this
31 chapter, Chapter 7.7 (commencing with Section 2680), and
32 Chapter 8 (commencing with Section 2700).

33 (c) On and after July 1, 2004, the Seismic Hazards
34 Identification Fund shall be known as the Strong-Motion
35 Instrumentation and Seismic Hazards Mapping Fund.